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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: MALCOLM G. SMITH, SR.)
SERIAL NO.: 09/663,832) GROUP ART UNIT
FILED: SEPTEMBER 15, 2000) 2876
FOR: ROTATIONAL PORTABLE CARD HAVING) EXAMINER
DATA STORAGE DEVICE, APPARATUS) DANIEL S. HESS
AND METHOD FOR USING SAME)

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

DECLARATION OF ELLEN SESMA
IN SUPPORT OF COMMUNICATION IN RESPONSE
TO NOTICE OF ABANDONMENT

Dear Sir:

I, Ellen Sesma, hereby declare as follows:

1. My name is Ellen Sesma, I reside at 3331 Madrona Drive, Santa Barbara, California and I am presently a Legal Secretary in the Law Offices of Daniel J. Meaney, Jr. in Santa Barbara, California.

I hereby certify that this correspondence is being deposited with the United States Postal Service as EXPRESS MAIL NO. EU788311335US in an envelope addressed to:
Commissioner of Patents and Trademarks,
Washington, D.C. 20231, on January 16, 2003.

Date of Signing: James 16, 2003

Signature: Daniel J. Meaney

Date of Mailing: James 16, 2003

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2. I have been employed in the past as by various law firms and I have been employed as a Legal Secretary for Daniel J. Meaney, Jr. for at least a period of the last three (3) years.

3. On or about December 23, 2002, I received a phone call from Examiner Daniel S. Hess [(703) 305-3841] inquiring if a response had been filed to the outstanding Office Action. I advised Examiner Hess, "Yes, we did not file a response". That was the extent of our discussion.

4. A copy of my hand written notes which I made contemporaneously at the time of the phone call with Examiner Hess is identified as EXHIBIT A and attached hereto. My handwritten notes contain my response, " Yes, we did not file a response" which corroborates my statement made to Examiner Hess.

5. At no time did I indicate to or otherwise communicate to Examiner Hess that the application was intentionally allowed to go abandoned. The reason for this is that I had personal knowledge that the Assignee/Owner of this Application was having financial difficulties and that it was the intent of the Assignee/Owner that when the financial resources to proceed were obtained, the Assignee/Owner intended to continue prosecution of

this Application including, if necessary, the filing of a petition to revive of an application for patent abandoned unintentionally.

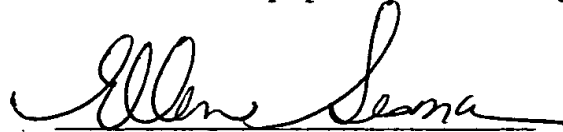
6. Examiner Hess did not discuss this matter with Daniel J, Meaney, Jr. Therefore, the statement; "In a phone conversation on Monday, Dec 23, applicant's representative Mr. Dan Mahoney Jr. indicated that the case has been intentionally allowed to go abandoned" is incorrect, inaccurate and does not represent the true reasons for the Application becoming abandoned. Further, the name Mr. Dan Mahoney Jr. is not the name of the attorney of record, Daniel J. Meaney, Jr.

7. The NOTICE OF ABANDONMENT was also signed by Karl D. Frech, Primary Examiner. Neither Daniel J. Meaney, Jr, or I discussed this matter with Karl D. Frech, Primary Examiner.

Further, Declarant sayth not.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

Dated: January 16, 2003


Ellen Sesma

Daniel J. Meaney, Jr.
P.O. Box 22307
Santa Barbara, California 93121-2307
Telephone: (805) 565-5513
Dated: January 16, 2003
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12/23/2002 Examiner - Daniel Hess ^{110:26}_{a.m.}

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Rotational Portable

Card having Data

Storage Device

Apparent use method
of using same

over ->

"yes, Did not make a

Response"

Dan. M.

By
Ro.
Man.

By
Robert S.
Manager and

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